

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0225.01 Bart Miller x2173

HOUSE BILL 15-1056

HOUSE SPONSORSHIP

Coram,

SENATE SPONSORSHIP

Hodge,

House Committees
Business Affairs and Labor
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DISCLOSURE OF INFORMATION FOR ASSET RECOVERY,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows a judgment creditor to file a petition in court to compel the department of labor and employment to disclose certain information about a judgment debtor. Judgment creditors must follow federal requirements for protecting any information disclosed and may not share it with other persons. A civil penalty of \$1,000 may be assessed against a judgment creditor who fails to comply with these requirements.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 (c) COMPLIES WITH REQUIREMENTS OF SUBSECTION (3) OF THIS
2 SECTION.

3 (2) A COURT THAT ENTERS A MONEY JUDGMENT AGAINST AN
4 INDIVIDUAL SHALL, REGARDLESS OF WHETHER THE JUDGMENT CREDITOR
5 HAS EXHAUSTED OTHER REMEDIES, GRANT AN ORDER REQUIRING THE
6 DEPARTMENT TO DISCLOSE THE NAME AND ADDRESS OF THE JUDGMENT
7 DEBTOR'S CURRENT EMPLOYER OR EMPLOYERS IF BOTH OF THE FOLLOWING
8 CONDITIONS ARE MET:

9 (a) THE JUDGMENT CREDITOR FILES A MOTION WITH THE COURT
10 AND, IF SO REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE,
11 SERVES A COPY OF THE MOTION ON THE JUDGMENT DEBTOR. THE
12 JUDGMENT DEBTOR MAY OPPOSE THE MOTION ON GROUNDS THAT THE
13 JUDGMENT IS VOID OR EXPIRED.

14 (b) IF THE JUDGMENT DEBTOR OPPOSES THE MOTION, THE COURT
15 HOLDS A HEARING WITHIN FOURTEEN DAYS AFTER THE TIMELY FILING
16 WITH THE COURT AND SERVICE OF THE OBJECTION UPON THE JUDGMENT
17 CREDITOR AND DENIES OR OVERRULES THE OBJECTION.

18 (3) WHEN A COURT ORDER IS GRANTED UNDER SUBSECTION (2) OF
19 THIS SECTION, THE JUDGMENT CREDITOR SHALL:

20 (a) PROVIDE TO THE DEPARTMENT A CERTIFIED COPY OF THE
21 COURT ORDER REQUIRING DISCLOSURE;

22 (b) (I) EXECUTE A USER AGREEMENT AND DISCLOSURE CONTRACT
23 WITH THE DEPARTMENT AND PAY THE APPLICABLE FEE ASSOCIATED WITH
24 THE USER AGREEMENT AND DISCLOSURE CONTRACT.

25 (II) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR A
26 ONE-TIME INITIATION FEE ATTRIBUTED TO THE EXECUTION OF THE
27 REQUIRED USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED

1 IN RULES ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103, C.R.S.
2 THE INITIATION FEE MAY NOT EXCEED FIVE HUNDRED DOLLARS.

3 (III) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR AN
4 ANNUAL RENEWAL FEE ATTRIBUTED TO THE EXECUTION OF THE REQUIRED
5 USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED IN RULES
6 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103, C.R.S. THE
7 ANNUAL RENEWAL FEE MAY NOT EXCEED TWO HUNDRED DOLLARS.

8 (c) (I) PAY THE DEPARTMENT A REASONABLE FEE THAT REFLECTS
9 THE ACTUAL COST OF PROCESSING THE REQUEST AS DETERMINED IN RULES
10 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103, C.R.S. THE
11 DEPARTMENT SHALL TRANSFER ALL FEES COLLECTED UNDER THIS
12 SUBSECTION (3) TO THE STATE TREASURER, WHO SHALL CREDIT THE
13 MONEYS TO THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN
14 SECTION 24-1-121, C.R.S.

15 (II) THE FEE PAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
16 (c) MAY BE RECOVERED BY THE JUDGMENT CREDITOR AS A TAXABLE
17 LITIGATION COST.

18 (d) COMPLY WITH THE DATA SAFEGUARD AND SECURITY
19 MEASURES DESCRIBED IN 20 CFR 603.9 WITH RESPECT TO INFORMATION
20 RECEIVED FROM THE DEPARTMENT UNDER THIS SECTION.

21 (4) IF A JUDGMENT CREDITOR COMPLIES WITH SUBSECTION (3) OF
22 THIS SECTION, THE DEPARTMENT SHALL PROVIDE TO THE JUDGMENT
23 CREDITOR THE NAME AND ADDRESS OF THE JUDGMENT DEBTOR'S CURRENT
24 EMPLOYER OR EMPLOYERS WITHIN SEVEN BUSINESS DAYS AFTER
25 RECEIVING THE CERTIFIED COURT ORDER.

26 (5) A JUDGMENT CREDITOR MAY NOT:

27 (a) USE THE INFORMATION OBTAINED UNDER THIS SECTION FOR A

1 PURPOSE OTHER THAN SATISFYING THE JUDGMENT BETWEEN THE
2 JUDGMENT CREDITOR AND THE JUDGMENT DEBTOR; OR

3 (b) SHARE THE INFORMATION WITH ANY OTHER PERSON EXCEPT AS
4 PERMITTED BY 20 CFR 603.9 (c).

5 (6) (a) THE DEPARTMENT, WITH JUST CAUSE AND AT ITS OWN
6 EXPENSE, MAY AUDIT A JUDGMENT CREDITOR RECEIVING INFORMATION
7 UNDER THIS SECTION FOR COMPLIANCE WITH THE DATA SAFEGUARD AND
8 SECURITY MEASURES OF 20 CFR 603.9.

9 (b) THE DEPARTMENT MAY PAY THE COSTS ASSOCIATED WITH
10 CONDUCTING AN AUDIT UNDER THIS SUBSECTION (6) ONLY FROM FUNDS IN
11 THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED UNDER SECTION
12 24-1-121 (1.7), C.R.S.

13 (7) (a) IF A JUDGMENT CREDITOR FAILS TO COMPLY WITH THE DATA
14 SAFEGUARD AND SECURITY MEASURES UNDER 20 CFR 603.9, THE
15 JUDGMENT CREDITOR, AFTER A COURT FINDING OF WILLFUL
16 NONCOMPLIANCE, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE
17 THOUSAND DOLLARS FOR EACH VIOLATION AS FOLLOWS:

18 (I) THE ATTORNEY GENERAL, ON THE ATTORNEY GENERAL'S
19 BEHALF OR ON BEHALF OF THE DEPARTMENT, MAY FILE AN ACTION IN
20 DISTRICT COURT TO SEEK AND ENFORCE THE CIVIL PENALTY; AND

21 (II) THE PREVAILING PARTY IS ENTITLED TO AN AWARD OF ITS
22 REASONABLE ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE
23 EXPENSES.

24 (b) IF THE JUDGMENT CREDITOR IS FOUND TO BE THE PREVAILING
25 PARTY, ALL FEES, COURT COSTS, AND INVESTIGATIVE EXPENSES REQUIRED
26 TO BE PAID TO THE JUDGMENT CREDITOR MUST BE PAID OUT OF THE
27 JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION 24-1-121

1 (1.7), C.R.S.

2 (8) WHEN COLLECTING ON ANY DEBT ARISING FROM PAST DUE
3 ORDERS, OBLIGATIONS, FINES, OR FEES DUE TO THE STATE OR ANY
4 POLITICAL SUBDIVISION WITHIN THE STATE, ANY FEES OR COSTS,
5 INCLUDING DESIGNATED CONTRACTUAL COSTS AND FEES, OF THE
6 PRIVATELY RETAINED COUNSEL OR A COLLECTION AGENCY ARE ADDED TO
7 THE AMOUNT DUE AND PLACED FOR COLLECTION, WHETHER OR NOT THE
8 DEBT HAS BEEN REDUCED TO JUDGMENT. EXCLUSIVE OF THE ACCRUAL OF
9 INTEREST AND COURT COSTS, ANY FEES OR COSTS MAY NOT EXCEED
10 TWENTY-FIVE PERCENT OF THE AMOUNT TO BE COLLECTED UNLESS
11 ADDITIONAL REASONABLE ATTORNEY FEES ARE AWARDED BY A COURT OF
12 COMPETENT JURISDICTION.

13 **13-51.3-103. Disposition of civil penalties, attorney fees, court**
14 **costs, and investigative expenses recovered.** THE DEPARTMENT SHALL
15 TRANSMIT ALL CIVIL PENALTIES, ATTORNEY FEES, COURT COSTS, AND
16 INVESTIGATIVE EXPENSES COLLECTED UNDER SECTION 13-51.3-102 TO THE
17 STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

18 **SECTION 2.** In Colorado Revised Statutes, 24-1-121, **add** (1.7)
19 as follows:

20 **24-1-121. Department of labor and employment - judgment**
21 **debtor disclosure fund - creation.** (1.7) THERE IS HEREBY CREATED IN
22 THE STATE TREASURY THE JUDGMENT DEBTOR DISCLOSURE FUND. THE
23 FUND CONSISTS OF MONEYS FROM FEES COLLECTED UNDER SECTION
24 13-51.3-103, C.R.S., FOR REQUESTS FOR DISCLOSURE OF CURRENT
25 EMPLOYER INFORMATION ON JUDGMENT DEBTORS. THE MONEYS IN THE
26 FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
27 ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE

1 DEPARTMENT OF LABOR AND EMPLOYMENT IN PROCESSING REQUESTS FOR
2 DISCLOSURE OF CURRENT EMPLOYER INFORMATION ON JUDGMENT
3 DEBTORS UNDER SECTION 13-51.3-102, C.R.S. THE STATE TREASURER
4 SHALL CREDIT ALL INTEREST DERIVED FROM THE DEPOSIT AND
5 INVESTMENT OF MONEYS IN THE FUND TO THE FUND. AT THE END OF ANY
6 FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE
7 FUND REMAIN IN THE FUND AND ARE NOT TRANSFERRED TO THE GENERAL
8 FUND OR ANY OTHER FUND.

9 **SECTION 3. Appropriation.** (1) For the 2015-16 state fiscal
10 year, \$233,358 is appropriated to the department of labor and employment
11 for use by the division of unemployment insurance. This appropriation is
12 from the judgment debtor disclosure fund created in section 24-1-121
13 (1.7), C.R.S., and is based on an assumption that the division will require
14 an additional 4.0 FTE. To implement this act, the division may use this
15 appropriation as follows:

16 (a) \$213,358 and 4.0 FTE for program costs for personal services
17 and operating expenses; and

18 (b) \$20,000 for the purchase of computer center services.

19 (2) For the 2015-16 state fiscal year, \$228,738 is appropriated to
20 the judicial department for use by the trial courts. This appropriation is
21 from the judicial stabilization cash fund created in section 13-32-101 (6),
22 C.R.S., and is based on an assumption that the trial courts will require an
23 additional 3.0 FTE. To implement this act, the trial courts may use this
24 appropriation as follows:

25 (a) \$221,138 and 3.0 FTE for trial court programs for personal
26 services; and

27 (b) \$7,600 for trial court programs for operating expenses.

1 (3) For the 2015-16 state fiscal year, \$70,656 is appropriated to
2 the judicial department. This appropriation is from the judicial
3 stabilization cash fund created in section 13-32-101 (6), C.R.S. To
4 implement this act, the trial courts may use this appropriation for
5 courthouse capital expenses.

6 (4) For the 2015-16 state fiscal year, \$20,000 is appropriated to
7 the governor - lieutenant governor - state planning and budgeting for use
8 by the office of information technology. This appropriation is from
9 reappropriated funds received from the department of labor and
10 employment out of the appropriation made in paragraph (b) of subsection
11 (1) of this section. To implement this act, the office of information
12 technology may use this appropriation for the provision of computer
13 center services for the department of labor and employment.

14 **SECTION 4. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.